



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

South Texas Health System

**Respondent Name**

Fidelity & Guaranty Insurance

**MFDR Tracking Number**

M4-14-2244-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

March 25, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "HRA has been hired by South Texas Health System to audit their Workers Compensation claims. We have found in this audit they have not paid what we determine to be the correct amount for this inpatient surgery per the Texas fee schedule in effect as of 2008."

**Amount in Dispute:** \$820.73

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The provider is incorrect to add in the "pass thru" amounts from the IPPS pricing system to the total DRG amount as they are not related to workers' compensation payment amounts."

**Response Submitted by:** Gallagher Bassett, 6404 International Parkway, Suite 2300, Plano, TX 75093

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 6 – 10, 2013	Inpatient Hospital Surgical Services	\$820.73	\$820.73

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
- 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 16 – Claim lacks information which is needed for adjudication
  - W1 – workers compensation state fee schedule adjustment
  - BL – Additional allowance is not recommended as this bill was reviewed in accordance with state guidelines

#### **Issues**

- Were the disputed services subject to a specific fee schedule set in a contract between the parties that

complies with the requirements of Labor Code §413.011?

2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

## **Findings**

1. The respondent's position states "The provider is incorrect to add in the "pass thru" amounts from the IPPS pricing system to the total DRG amount as they are not related to workers' compensation payment amounts" In support of their argument the respondent quotes the Rule Adoption Order for Health Facility Fees rule §134.404 which states: 28 Texas Administrative Code §134.404(f) provides, in pertinent part, that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register" with minimal modification as specified in the rule.

Contrary to the respondent's position, the Division notes that the Rule Adoption Order does not specify that pass-through reimbursements are excluded from payment rule, only that the Labor Code does not provide for pass-through reimbursements to cover bad debt or direct medical education.

The Division clarified elsewhere in the preamble that "Bad debt and direct medical education are paid outside the base methodology and are a part of the cost report reconciliation process, which the Division has not adopted" (33 Texas Register 419). In each instance the Division is referring to a process, cost report reconciliation that was not adopted and accordingly not mentioned in the text of the rule.

The Division agrees that the Labor Code does not provide for pass-through reimbursements to cover bad debt or teaching schools. For this reason, the Division has adopted CMS's base methodology but not parts related to the cost report process that address bad debt and direct medical education(33 Texas Register 419).

The respondent has not supported the argument that pass-through amounts are to be excluded from CMS's base methodology, or from the calculation of the Medicare facility specific amount.

2. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
  - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
  - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

3. §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
  - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
    - (A) 143 percent; unless
    - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

No documentation was found to support that the facility requested separate reimbursement for implantables; for that reason the MAR is calculated according to §134.404(f)(1)(A).

§134.404(f)(1)(A) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 143%. Information regarding the calculation of Medicare IPPS payment rates may be found at <http://www.cms.gov>. Documentation found supports that the DRG assigned to the services in dispute is 460, and that the services were provided at South Texas Health System South. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$31,531.98. This amount multiplied by 143% results in a MAR of \$45,090.73.

4. The division concludes that the total allowable reimbursement for the services in dispute is \$45,090.73. The respondent issued payment in the amount of \$44,270.00. Based upon the documentation submitted, additional reimbursement in the amount of \$820.73 is recommended.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$820.73 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	July 14, 2014
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**